

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DANESHIA SMITH
Plaintiff

vs.

No.

**MICHAEL JOSEPH GRUBER and
OLD DOMINION FREIGHT LINE, INC.**
Defendants

NOTICE OF REMOVAL OF CIVIL ACTION

TO: Patrick Witherington, #22348
Witherington Law, PLLC
300 James Robertson Parkway
Suite 200
Nashville, TN 37201
patrick@wlawfirm.com

Pursuant to 28 U.S.C. Sections 1441 and 1446, the Defendant, *Old Dominion Freight Line, Inc.*, by and through counsel of record, Glassman, Wyatt, Tuttle & Cox, P.C., files this Notice of Removal of the above civil action, and as basis for said removal, would show as follows:

1. Removing party, Old Dominion Freight Line, Inc. is a named Defendant in the above entitled action.

2. This matter was originally filed in the Circuit Court of Davidson County, Tennessee, on the 22nd day of February, 2022, under Docket No. 22C334. A copy of the original Complaint filed in the Circuit Court of Davidson County, Tennessee, is attached to this Notice of Removal.

3. Old Dominion Freight Line, Inc., was served on March 1, 2022, via personal service

on CT Corp., its registered agent in Tennessee.

4. Based on a review of the file by the undersigned counsel for removing Defendant, the Complaint, Summons, and discovery to the Defendants are the only pleadings filed in the cause to date.

5. Defendant, Michael Joseph Gruber has not been served as of this date. Mr. Gruber, when served, will be represented by the undersigned counsel, and will consent to and join in this removal.

6. Since the filing of the Complaint, no further proceedings have taken place in the Davidson County, Tennessee Circuit Court action.

7. Based on the damage's allegations in the Complaint, the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00. In accordance with 28 U.S.C. Section 1446 (c)(2)(B), to establish that the amount in controversy exceeds \$75,000.00, Defendant would show this is an action for personal injury and property damages. Further, while no specific amount is sued for, Plaintiff has alleged medical expenses of \$34,945.67 and property damage of \$6019.51, along with damages not to exceed Tennessee's statutory caps on non-economic damages, and as such, Defendant would show that the amount in controversy is in excess of \$75,000.00.

8. Plaintiff is presently, and was at the time the Complaint was filed, a resident citizen of Davidson County, Tennessee.

9. The Defendant, Old Dominion Freight Line, Inc. is presently, and was at the time the Complaint was filed, a Virginia with its principal place of business being in Thomasville, Davidson County, North Carolina.

10. The Defendant, Michael Joseph Gruber, is presently, and was at the time the

Complaint was filed, a resident citizen of Buford, Gwinnett and Hall Counties, Georgia.

11. This action is a civil action for personal injuries as a result of a motor vehicle accident which occurred in Davidson County, Tennessee, on September 15, 2021.

12. This Court has original jurisdiction of this action pursuant to 28 U.S.C. Section 1332(a)(1) and (c) as the suit is between citizens of different states, and as the amount in controversy allegedly exceeds the sum of \$75,000.00 exclusive of interests and costs.

13. This Notice of Removal is being filed with this Court within 30-days of receipt and service of the Complaint by the removing Defendant, Old Dominion Freight Line, Inc.

14. Defendant has filed a copy of this Notice of Removal with the Circuit Court of Davidson County, Tennessee, pursuant to 28 U.S.C. 1446 (d).

RESPECTFULLY SUBMITTED,
COUNSEL FOR DEFENDANT,
OLD DOMINION FREIGHT LINE, INC.

BY: s/Carl Wyatt

CARL WYATT, #12304

Glassman, Wyatt, Tuttle & Cox, P.C.

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Memphis, Tennessee 38103

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GWTC File No. 22-73Z

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of March, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

A true and correct copy of the foregoing pleading has been properly served via the Court's CM/ECF system, Email and/or United States Mail, postage prepaid upon the following:

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patrick@wlawfirm.com

s/ Carl Wyatt
Carl Wyatt